

SCOTTY RAY DAVIS,)
)
Plaintiff,) 2:16-CV-00143-JRG
)
vs.)
)
SOCIAL SECURITY,)
COMMISSIONER OF,)
)
Defendant)

The Court filed a Report and Recommendation [Doc 18] in which the Court found that “[s]ubstantial evidence does not support [the ALJ’s] finding that Plaintiff does not have a severe impairment, requiring a remand.” [Doc. 18, pg. 11]. The Court found a remand necessary as the ALJ had prematurely terminated the evaluation process at step two, which addresses whether Plaintiff’s impairments are severe. The Court recommended that Plaintiff’s motion be granted so that the Commissioner could further evaluate Plaintiff’s condition along the sequential process.

In response to that Report and Recommendation, Plaintiff filed a “Motion for Clarification” in which Plaintiff professes confusion as to the effect of the Recommendation. Plaintiff claims he asked for an award of benefits in his motion, not a remand. “Since the [Court] recommends that the Plaintiff’s motion for Judgment on the Pleadings be GRANTED, it would appear to the Plaintiff that the above phrase “requiring a remand” was intended to mean to be a remand solely for payment of benefits.” [Doc. 19, pg. 2]. Oral argument was heard on this motion on May 26, 2017.

It was the intent of the Court in granting the Plaintiff's motion that the case be remanded pursuant to sentence four of 42 U.S.C. § 405(g). Accordingly, that is what the Court RECOMMENDS in this case. While Plaintiff did not specifically request this alternative form of relief, the United States advised the Court it had no objection to the Court considering Plaintiff's pleadings to include a request for the alternative relief of a remand under these circumstances.¹

Respectfully submitted,

s/Clifton L. Corker

United States Magistrate Judge

¹ Any objections to this report and recommendation must be filed within fourteen (14) days of its service or further appeal will be waived. 28 U.S.C. 636(b)(1).